

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NO. RPU-91-5
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**ORDER APPROVING PLAN FOR DISPOSITION OF FORMER
MANUFACTURED GAS PLANT INSURANCE RECOVERY**

(Issued October 16, 2000)

On May 16, 2000, MidAmerican Energy Company (MidAmerican) filed an application with the Utilities Board (Board), which contained a proposed plan for the disposition of insurance recoveries related to former manufactured gas plant (FMGP) sites. The plan proposed that the recoveries be used to expedite the remediation of the sites. The application was identified as Docket No. RPU-91-5. On May 30, 2000, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed an objection to the proposed plan. On June 28, 2000, the Board issued an order directing MidAmerican to file more details of the proposed plan. On July 14, 2000, the Board granted intervention in this proceeding to Peoples Natural Gas Company, Division of UtiliCorp United Inc. (Peoples).

On September 1, 2000, MidAmerican and Consumer Advocate filed a "Joint Motion for Approval of Settlement Agreement." In the joint motion, MidAmerican and Consumer Advocate request the Board adopt the settlement as a resolution of all issues related to MidAmerican's proposed plan for the disposition of the insurance

recoveries filed on May 16, 2000. The joint motion indicates that Peoples has no objection to the settlement.

In the "Final Decision and Order" in Docket No. RPU-91-5, issued May 12, 1992, MidAmerican (successor to Midwest Gas, a Division of Midwest Power Systems, Inc.) was directed to keep a cumulative record of the recovery of funds related to the FMGP sites. MidAmerican was also allowed to recover in rates a representative level of cleanup costs for the sites. The proposed plan filed on May 16, 2000, would use the insurance recovery funds to accelerate the remediation of the sites beyond the remediation scheduled under the current funding.

The settlement agreement proposes to allow MidAmerican to accelerate the remediation process as first proposed, but with certain conditions. The agreement would require that in any given year, MidAmerican will spend first from funds unrelated to the insurance recoveries up to a threshold of \$4.3 million. The threshold may be adjusted. The agreement requires that the insurance recovery funds will be used to accelerate remediation and not to substitute for amounts currently being expended for FMGP remediation. The agreement requires MidAmerican to file by March 15 annually any changes to the threshold and its expedited activities for the year and a semiannual report showing the level of remediation activity accomplished and expenditures. Finally, the agreement requires that MidAmerican, beginning in 2003 and continuing for four years, provide Consumer Advocate with MidAmerican's Iowa jurisdictional revenue requirements and supporting data for gas operations.

The Board has reviewed the terms and conditions of the settlement agreement and will approve the agreed-upon plan to use the insurance recoveries for the acceleration of remediation of FMGP sites with the accompanying conditions. The terms of the agreement will ensure that MidAmerican utilizes the funds for accelerating the remediation process and not as a substitute for current funding. The filing requirements in the agreement will allow the Board and Consumer Advocate the opportunity to monitor the remediation process and the use of the insurance recovery funds. In addition, the requirement that MidAmerican provide to Consumer Advocate annual jurisdictional revenue requirements will minimize any regulatory lag related to reductions in MidAmerican's FMGP remediation expenditures beyond 2003.

Pursuant to 199 IAC 7.2(11), the Board may accept a settlement if it is reasonable in light of the whole record, consistent with law, and in the public interest. The Board finds that the settlement meets this standard. The use of the funds to accelerate the cleanup and removal of hazardous material from the environment is a significant public benefit. Iowa has a strong public policy with respect to clean water and the elimination of hazardous waste. Protection of soil and groundwater are matters of serious public concern and accelerating the remediation of these sites will provide significant benefits to the environment. The acceleration will reduce further environmental degradation and will limit potential costs.

The Board has recognized the seriousness of the need to clean-up these sites by authorizing recovery of \$4.3 million annually in rates. The Board finds the settlement to be in the public interest because the significant environmental benefits

of acceleration of the clean-up outweigh the benefits of return of the funds, which would provide only a small refund to each customer.

IT IS THEREFORE ORDERED:

The settlement agreement filed by MidAmerican Energy Company and the Consumer Advocate Division of the Department of Justice on September 1, 2000, for the use of insurance recovery funds to accelerate remediation of former manufactured gas plant sites is approved.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Susan J. Frye

DISSENT

I respectfully dissent from the decision of the Board to approve the settlement agreement that allows MidAmerican to retain the insurance recovery for environmental cleanup of the former manufactured gas plant sites. Even though the settlement requires that the funds be utilized only for accelerated remediation, I believe that the settlement is not the best use of funds and therefore is not in the public interest. It is with some reluctance that I take this position, since I believe that settlement of these types of cases is usually the best resolution. In this instance I believe that the public interest is best served by a return of 90 percent of the money to the ratepayers.

In its order of May 15, 1992, the Board addressed the issue of insurance recoveries. The Board in that order authorized the recovery in rates of a significant portion of the cost of the environmental cleanup and found that "it is also reasonable that a comparable portion of any third-party recovery for the environmental cleanup from insurance companies should offset ratepayer expense." The Board also found that there should be a sharing of the recoveries between the ratepayers and the shareholders.

Since the order in May 1992, the ratepayers have provided over \$30 million for the remediation of the sites. They are currently providing approximately \$4.3 million annually toward remediation. The proposed settlement would expedite the schedule by two years. As far as I can tell from the record, there is no evidence that any of the sites are causing illness or there is any liability beyond what has been there throughout the cleanup process. I believe that the ratepayers have met their responsibility for cleaning up the environmental damage from the sites and will continue to do so.

Given that environmental cleanup is on track and there is no demonstrated need for the expediting the schedule, I believe that there is a better use for the dollars. First, we have good reason to believe that natural gas prices this winter will be 30 to 40 percent higher than last year. We know that last year's winter was mild and that if higher gas prices are coupled with a colder winter, many Iowans may face difficulties in paying energy bills. We also know from the June 2000 Iowa LIHEAP Energy Survey, "Iowa's Cold Winters: LIHEAP Recipient Perspective," that many

low-income lowans forgo needed medication and food in order to pay their energy bills. When weighing the availability of the money to pay gas bills against the two years gained on the cleanup schedule through this settlement, I am compelled to vote to return the money to ratepayers as the Board did in Docket No. RPU-94-2. In that case the Board, addressing a similar recovery by Midwest Gas, ordered that 90 percent of the recovery be refunded to ratepayers and that Midwest Gas retain 10 percent. The public interest is best served by refunding these funds to the ratepayers.

/s/ Diane Munns

ATTEST:

/s/ Raymond K. Vawter, Jr.

Executive Secretary

Dated at Des Moines, Iowa, this 16th day of October, 2000.